

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures--Hearings

Article 4. Administrative Hearing Procedures for Review of Citations

Subarticle 5. Initiating Proceeding to Contest a Citation

§ 60075.17. Filing a Request for Hearing.

(a) Upon receiving a citation, the citee may:

(1) Initiate proceedings under these rules by filing a written request for hearing to contest a citation issued by the state board; or

(2) Pay the penalty demanded in the citation.

(b) For citations arising under section 44011.6 of the Health and Safety Code, the request for hearing shall be filed within 45 days of the citee's receipt of the citation by personal delivery or certified mail.

(c) For all other citations issued by the state board, the request for hearing shall be filed within 30 days of the citee's receipt of the citation by personal delivery or certified mail.

(d) The hearing officer may extend the applicable filing period set forth in subparagraphs (b) and (c) for good cause.

(e) If the citee fails to notify the hearing office of his or her intent to contest the citation within the applicable period set forth in subparagraphs (b) and (c), and if the citation penalty amount has not been paid in full, the citation becomes a final order not subject to review by any court or agency.

(f) The request for hearing shall be deemed filed on the date the notice indicating a desire to contest the issued citation is delivered or mailed to or, if the date of delivery or mailing is not known, received by the hearing office. No particular format is necessary to institute the proceeding; however, the request shall include all of the information specified in section 60075.18 of these rules.

(g) If the communication initiating the proceeding does not include the information required pursuant to section 60075.18, the hearing office shall immediately acknowledge receipt of the communication indicating the desire to request a hearing and shall notify the citee of the deficiencies in the submission which must be corrected before the request for hearing may be filed and docketed. The citee shall have 10 days from the date of mailing of the notice of deficiencies to submit a complete request for hearing; if the deficiencies are not corrected in the time provided the citation becomes final.

(h) Upon timely receipt of a complete request for hearing, the hearing office shall assign a docket number to the proceeding, and shall notify the parties that the request for hearing has been filed and docketed.

(i) Upon a showing of good cause, the hearing officer may allow the citee to amend the request for hearing after the deadline for filing has passed.

NOTE: Authority cited: Sections 39600, 39601, 43028, 43031(a) and 44011.6(m), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Sections 43028, 43031(a) and 44011.6, Health and Safety Code.

REFERENCE